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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,979	02/27/2004	Wolfgang Aderhold	008304	6862
60300 7590 06/30/2011 LAW OFFICES OF CHARLES GUENZER ATTN: APPLIED MATERIALS, INC. 2211 PARK BOULEVARD P.O. BOX 60729 PALO ALTO, CA 94306			EXAMINER PAIK, SANG YEOP	
			ART UNIT 3742	PAPER NUMBER
			MAIL DATE 06/30/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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LAW OFFICES OF CHARLES GUENZER
ATTN: APPLIED MATERIALS, INC.
2211 PARK BOULEVARD
P.O. BOX 60729
PALO ALTO CA 94306

In re Application of: :
ADERHOLD, WOLFGANG :
Serial No.: 10/788,979 :
Filed: Feb. 27, 2004 :
Docket: 008304 : DECISION ON PETITION
Title: BACKSIDE RAPID THERMAL :
PROCESSING OF PATTERNED :
WAFERS :

This is a decision on the petition filed on June 13, 2011 seeking to withdraw the non-final office action mailed on April 1, 2011 and issue a Notice of Allowance. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is denied as untimely.

In the June 13, 2011 petition, the petitioner requests the non-final Office action of April 1, 2011 be withdrawn because the petitioner believes the examiner's rejection is improper. Petitioner also argues that the re-opening of prosecution is waste of time because the Board of Patent Appeals and Interferences has already considered the references as applied.

Discussion

A review of the record shows that the reopening of prosecution subsequent to a decision by the Board under 37 CFR 1.198 was signed by a Technology Center Director, thus indicating her approval in accordance with MPEP 1002.02(c). The non-final Office action is proper. The instant petition of June 13, 2011 was filed more than two months after the mailing date of the non-final Office action of April 1, 2011. Pursuant to 37 CFR 1.181(f)¹, the petition must be filed

¹ 37 CFR 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

within two months from the action complained of. Since the petition was not timely filed, the requested withdrawal of non-final Office action of April 1, 2011 will not be granted.

If the applicant believes that the examiner has erred in his judgment, a proper course of action would be to file an appeal brief to have the examiner's rejection reversed. A TC Director can not compel an examiner to ignore prior art references and direct the examiner to allow the claims in this application. Moreover, the applicant has the right to appeal the examiner's patentability determination to the Board if the applicant still disagrees with the stated position of the examiner. Therefore, the requested relief for issuance of a Notice of Allowance can not be granted.


Conclusion

For the foregoing reasons, the relief requested by the petitioner will not be granted. In particular, the non-final rejection of February 3, 2011 remains in effect. The non-final rejection is proper in accordance with MPEP § 1214.04 and 37 CFR § 1.198. Petitioner is reminded that the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings as stated in (37 CFR 1.181(f)).

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3742 awaiting a response to the outstanding Office action mailed on April 1, 2011. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria Virginia 22313-1450. See MPEP 1002.02(b).

Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DENIED AS UNTIMELY.



Angela D. Sykes, Director
Technology Center 3700